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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 NEHMIAS MUNOZ,

4 Plaintiff,

5 v.

14 Cv. 6628 (AT)

6 THE CITY OF NEW YORK, et al.,

7 Defendant.
8 -----x

9 October 8, 2015
10 9:30 a.m.

11 Before:

12 HON. DEBRA C. FREEMAN

13 Magistrate Judge

14 APPEARANCES

15 NEHMIAS MUNOZ
16 Pro Se Plaintiff

17 ZACHARY CARTER
18 Corporation Counsel of the City of New York
19 ARIEL S. LICHTERMAN
20 Assistant Corporation Counsel

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22 Attorney for Defendant
23 BY: @
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(In chambers; phone conference)

THE COURT: Good morning. It's Judge Freeman.

Mr. Munoz.

MR. MUNOZ: Yes.

THE COURT: Mr. Lichterman.

MR. LICHTERMAN: Yes. Good morning.

THE COURT: Is that everybody?

MR. LICHTERMAN: Yes, it is.

THE COURT: I am hoping that we have a little more information today than we had last time.

I gather you were just talking to each other.

MR. LICHTERMAN: Yes, that's right.

THE COURT: Can you tell me, Mr. Munoz, whether you had that transcript that you were looking for, the pretrial transcript?

MR. MUNOZ: I have it, yes, ma'am. I have it, but I don't have it present with me. I left it in the cell that I am in.

THE COURT: That's fine. I just wanted to know if you had actually received it.

MR. MUNOZ: Yeah, I got it. I got all the paperwork really. I was telling Mr. Lichterman all the paperwork has been done. There is a law clerk in the law library that helped me fill it out. The only thing that hasn't been filled out is the Form 4506, the release for a copy of the tax return.

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1 THE COURT: The release for what?

2 MR. MUNOZ: For the tax return. There is a request
3 for a copy of tax returns.

4 THE COURT: Mr. Lichterman, why are you asking for
5 that?

6 MR. LICHTERMAN: I don't have it in front of me. I am
7 trying to pull it up.

8 THE COURT: Why would Mr. Munoz's tax returns be
9 relevant to anything?

10 MR. LICHTERMAN: To his damages. If he was working at
11 the time of the arrest and if he was not able to work
12 afterwards.

13 THE COURT: Regardless, you don't just get tax
14 returns. You have got to make a showing that you can't get the
15 information, or substantially the same information, by some
16 other means. There's lots of law in this circuit about when
17 tax returns are discoverable. I certainly think right off the
18 bat they would not be appropriate for discovery.

19 Mr. Munoz, I am going to tell you you don't need to
20 fill that out.

21 MR. MUNOZ: There's two forms. There's release
22 photocopies of tax returns and tax information.

23 THE COURT: I am going to say that you don't need to
24 be providing tax information at this time.

25 MR. MUNOZ: OK.

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1 THE COURT: What about the interrogatories that were
2 served on you. You found those and you have gotten some help
3 in trying to provide answers to those?

4 MR. MUNOZ: Yes, I do.

5 Actually, let me look for them. I numbered the
6 paperwork. I put a number on each paper because I don't want
7 to mess up over here.

8 Yeah, I have them right here. Actually, I had the
9 clerk staple them; he told me to staple them so I could be all
10 together.

11 Interrogatories?

12 THE COURT: Correct.

13 MR. MUNOZ: It has a lot of questions really.

14 THE COURT: Right. And you need to provide answers,
15 write out answers, and send those back to Mr. Lichterman.

16 MR. MUNOZ: You want me to send all the paperwork to
17 Mr. Lichterman, right?

18 THE COURT: I want you to answer the questions and
19 send your answers to the questions back to Mr. Lichterman.

20 MR. MUNOZ: OK. What about the rest of the forms that
21 were notarized and all that, what about that?

22 THE COURT: I am not sure what forms they are.

23 MR. MUNOZ: There's a whole bunch of them here.
24 Actually, most of these forms, my lawyer at the time,
25 Mr. Mouton, Jr. --

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1 THE COURT: Mr. Mouton.

2 MR. MUNOZ: -- he had got all this information. It's
3 in the paperwork. HIPAA is the medical and all that, Social
4 Security form, Medicaid form, stuff like that. I have got them
5 notarized just in case. Release for psychotherapy notes.

6 THE COURT: In this case, are you claiming physical
7 injury?

8 MR. MUNOZ: Who, me? Yeah.

9 THE COURT: Are you claiming emotional distress as
10 well?

11 MR. MUNOZ: Yes, ma'am.

12 THE COURT: OK.

13 MR. MUNOZ: You want me to send him these forms too?

14 THE COURT: Yes.

15 MR. MUNOZ: With the help of the gentleman in law
16 library, he helped me do it, and notarized it for me too,
17 Monday the 5th.

18 THE COURT: So send back those forms also to Mr.
19 Lichterman.

20 MR. MUNOZ: All right.

21 THE COURT: Write out answers to the questions and
22 send back the signed forms as well to Mr. Lichterman.

23 MR. MUNOZ: Everything is well neat. The answers, I
24 answered them to the best I can, like you told me.

25 THE COURT: Right.

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1 MR. MUNOZ: It's up to 20, but most of the questions
2 is dealing with the paperwork though.

3 THE COURT: Look, if you send them back and Mr.
4 Lichterman looks at what you did, if he has any issues with it,
5 he will raise that next time.

6 MR. MUNOZ: OK. I am going to be honest, I am looking
7 through it right now, and I don't really see no questions. It
8 just say produce copies of subpoena served on any party. I
9 don't really see no questions towards me.

10 THE COURT: Mr. Lichterman, do you have a copy of the
11 interrogatories with you?

12 MR. LICHTERMAN: I am trying to pull it up. There are
13 interrogatories. I don't know that it's phrased exactly like a
14 question.

15 MR. MUNOZ: Right.

16 MR. LICHTERMAN: There are interrogatories. Just
17 answer everything to the best of your ability. As the judge
18 mentioned, if there are any problems, we can discuss it during
19 the next conference.

20 MR. MUNOZ: OK. I could mail those out tomorrow.

21 THE COURT: Can you keep a copy for yourself?

22 MR. MUNOZ: The machine is still broken down and I
23 couldn't make no copies, but I do have a set of blank copies of
24 the same paperwork. I just don't have it filled out or
25 notarized. I got the original notarized, but I don't have no

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1 copy of that.

2 THE COURT: I don't want you to have to wait for the
3 copy machine to be fixed, but I would like you to be able to
4 keep a copy of what it is that you sent to Mr. Lichterman.

5 Mr. Lichterman, would you mind making a copy of what
6 you get and sending it back so that if we have a discussion
7 about it Mr. Munoz can have it in front of him?

8 MR. LICHTERMAN: Sure. That's no problem.

9 THE COURT: I appreciate that.

10 OK. Now, what about documents? Do you have any
11 documents, Mr. Munoz, that are relevant to your claims,
12 documents you haven't received from Mr. Lichterman, documents
13 you had otherwise, maybe in connection with your criminal case,
14 that you might want to be using in this case?

15 MR. MUNOZ: Basically, like the indictment papers, I
16 have that. It's got all the charges. I didn't see that in the
17 paperwork that Mr. Lichterman provided me. Basically, that's
18 about it. All the paperwork, pictures of me in the hospital,
19 he sent me all of that really.

20 THE COURT: He sent that to you?

21 MR. MUNOZ: Yeah.

22 THE COURT: Well, if there is anything that you have
23 that you didn't already get from him, that you had separately,
24 that you might want to use in this case to help you prove your
25 claims, then you need to produce a copy of that to Mr.

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1 Lichterman. Again, I don't want your only copies of things to
2 go out without some assurance that it's not gone if it gets
3 lost in the mail or that you can't get a copy yourself.

4 Are these documents where your criminal lawyer has
5 additional copies?

6 MR. MUNOZ: Yeah. Yes, he does. His name is Mr.
7 Gurwitch.

8 THE COURT: Well, look at what you have that you did
9 not get from Mr. Lichterman, documents you have from some other
10 source, OK. And if there is anything that you would want to
11 use to support your claim in the case, provide a copy to Mr.
12 Lichterman. OK? Can you get those out in the mail as well?

13 MR. MUNOZ: Excuse me?

14 THE COURT: Can you send those out in the mail also?

15 MR. MUNOZ: You said if I only have one copy --

16 THE COURT: If they are documents from your criminal
17 case, check with your lawyer in that case and make sure he has
18 got extra copies.

19 MR. MUNOZ: It's kind of hard to stay in touch with
20 him. I would have to write him a letter. He doesn't really
21 write back. I have tried that. He works with the Legal Aid
22 Society in the Bronx. Right now I don't have his card with me,
23 but I do have it.

24 THE COURT: The only documents that you have that you
25 might use to support your claim, other than material you got

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1 from Mr. Lichterman, the only materials are materials related
2 to your criminal case?

3 MR. MUNOZ: Yeah. They are related.

4 THE COURT: Mr. Lichterman, can you get the criminal
5 case papers separately?

6 MR. LICHTERMAN: I should be able to get them.

7 THE COURT: All right. Why don't you try a separate
8 route, just to try to make sure you have got a complete set of
9 what there might be on this. And let me just schedule another
10 call and see how this is going. I kind of don't want to tell
11 Mr. Munoz to mail out to you everything he has when he doesn't
12 have the ability to make copies if he might need materials for
13 his criminal case.

14 MR. LICHTERMAN: Right.

15 MR. MUNOZ: Judge Freeman, what about the notary?
16 It's already notarized. Is that going to be a problem? It's
17 October 5 already.

18 THE COURT: That's all right. The interrogatory
19 answers and those release forms that you were talking about,
20 put those out in the mail to Mr. Lichterman.

21 MR. MUNOZ: OK.

22 THE COURT: The other documents that you have, like
23 the indictment, information from your criminal case, hold on to
24 that for now. If the copy machine gets fixed, make copies and
25 send them to Mr. Lichterman. If not, you will tell us what is

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1 going on on the next call, and meanwhile Mr. Lichterman can try
2 and get them separately.

3 MR. MUNOZ: OK.

4 MR. LICHTERMAN: Your Honor, it would be helpful,
5 though, if Mr. Munoz can identify particularly which documents
6 that he intends to rely upon.

7 MR. MUNOZ: I could write that in a letter inside the
8 paperwork.

9 THE COURT: Exactly. Why don't you make a list of the
10 documents that you have that you might want to use in this
11 case, identify what they are with information that's helpful to
12 locate them, like the date, the case number, things like that.

13 MR. MUNOZ: OK. The date and the case number, right?

14 THE COURT: The name of the document, like indictment,
15 whatever it is, the name of the case, the case number, the
16 date, anything that will help identify it.

17 MR. MUNOZ: All right.

18 THE COURT: And provide that in a list.

19 Let's just have another call in a few weeks and just
20 see how things are going.

21 Mr. Lichterman, maybe you can send out releases, you
22 can see what you can do, and we will just take stock.

23 MR. LICHTERMAN: That's fine, your Honor.

24 THE COURT: Mr. Munoz, can we do a 10:30 or an 11:00,
25 would that work at the facility?

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1 MR. MUNOZ: Sure. No problem.

2 THE COURT: Let's try 11:00 on October 29.

3 MR. LICHTERMAN: That works for me, your Honor.

4 MR. MUNOZ: OK.

5 THE COURT: We will see if we can take stock. OK?

6 MR. MUNOZ: OK.

7 THE COURT: All right. Thank you both.

8 MR. LICHTERMAN: Your Honor, if you can issue another
9 order stating that so I can set up the conference, that would
10 be helpful.

11 THE COURT: Absolutely. And if you can order a copy
12 of this transcript as usual that will be nice as well.

13 Thank you so much.

14 MR. MUNOZ: Have a nice morning.

15 THE COURT: Thank you. Hopefully we are moving this
16 case along now.

17 Take care everybody.

18 (Adjourned)